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Attorneys for Non-Party Aldi Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

FEDERAL TRADE COMMISSION, STATE
OF ARIZONA, STATE OF CALIFORNIA,
DISTRICT OF COLUMBIA, STATE OF
ILLINOIS, STATE OF MARYLAND,
STATE OF NEVADA, STATE OF NEW
MEXICO, STATE OF OREGON, and STATE
OF WYOMING,

Case No. 3:24-cv-00347-AN

**DECLARATION OF ROBERT
SITTER IN SUPPORT OF
NONPARTY ALDI INC.'S MOTION
TO SEAL**

Plaintiffs,

v.

THE KROGER COMPANY and
ALBERTSONS COMPANIES, INC.,

Defendants.

I, Robert Sitter, hereby declare as follows:

1. I am a Group Director of Finance & Administration at ALDI INC. ("Aldi"),

which is a privately held grocery retailer and a nonparty to the above-captioned case. I make this

declaration in support of nonparty Aldi's Motion to Seal Deposition Testimony of Robert Sitter (the "Motion"). I have personal knowledge of the matters stated herein and, if called upon to do so, could competently testify to them.

2. I have reviewed and am familiar with the confidential documents Aldi produced in response to subpoenas from the parties in the above-captioned matter.

3. Additionally, on June 18, 2024, I testified as Aldi's corporate designee at a discovery deposition in this matter, during which many of the confidential documents produced by Aldi were discussed.

4. Given my position at Aldi, I am familiar with the type of information contained in my deposition testimony and its competitive significance to Aldi. Based on my review of the transcript, my knowledge of Aldi's business, and my familiarity with the confidentiality protections afforded to this type of information by Aldi, I submit that the disclosure of certain portions of the deposition transcript that the FTC stated that it cited, quoted or relied on Plaintiffs' Proposed Findings of Fact and Conclusions of Law ("FOF/COL") (ECF No. 481) will cause serious competitive injury to Aldi if disclosed to the public and to competitors of Aldi. The documents attached to this declaration as Exhibit A are true and correct copies of the pages of the deposition transcript cited by the FTC in its notice that Aldi seeks to maintain under seal.

5. As described in the Motion, Aldi seeks to maintain under seal Highly Confidential information in the deposition transcript ("Sitter Deposition") because it contains information related to product and marketing strategies, and other proprietary information as further described below.

Confidentiality Measures

6. The Highly Confidential information contained in the Sitter Deposition that Aldi seeks to maintain under seal could only be known or determined by Aldi itself.

7. The source material for this information is only known by and shared with those employees for whom it is relevant for their day-to-day responsibilities.

8. Aldi's ability to compete in the marketplace for customers and employees would be significantly harmed if this information were publicly disclosed.

9. Aldi invested significant effort and capital into developing and conducting competitive analyses and studies on product and marketing strategies.

10. The information Aldi seeks to maintain confidentiality of would be very difficult for others to acquire or duplicate.

11. Counsel for the FTC informed Aldi that they have cited Highly Confidential portions of the Sitter Deposition in Plaintiffs' FOF/COL. (ECF No. 481; PX4136.) My deposition testimony on behalf of Aldi included confidential information related to Aldi's product and marketing strategies. My deposition testimony also included other confidential information of Aldi, such as product assortment and detailed descriptions of strategies for customers.

12. Disclosure of this information would cause serious, irreparable harm to Aldi. Aldi seeks to maintain under seal the testimony on the pages of the deposition transcript included within Exhibit A. These portions of the deposition testimony describe in detail information that is not publicly available. Releasing this information would expose Aldi's proprietary and confidential information to the public and competitors. Thus, it is appropriate for the testimony on the pages of the deposition transcript attached as Exhibit A to be maintained under seal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 10, 2024.

A handwritten signature in black ink, appearing to read 'Robert Sitter', written over a horizontal line.

Robert Sitter

EXHIBIT A
TO DECLARATION OF ROBERT
SITTER IN SUPPORT OF NONPARTY
ALDI INC.'S MOTION TO FILE
UNDER SEAL

FILED UNDER SEAL